

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

VERONICA PIERCE AND FLINT PIERCE,

Plaintiffs,

vs.

Case No. 1:15-CV-00758

CONNIE CHENE, SHAY VANDERMEY,
TAMARA HENDERSON, CARLOS ROMERO,
KAREN CARMICHAEL, MARK TOLLEY,
DEBORAH ELDER, ALL IN THEIR INDIVIDUAL
CAPACITIES, AND THE GOVERNING
COUNCIL FOR ALICE KING COMMUNITY SCHOOL,

Defendants.

NOTICE OF REMOVAL

Defendants Connie Chene, Tamara Henderson, Carlos Romero, Karen Carmichael, all in their individual capacities, and the Governing Council For Alice King Community School, by and through undersigned counsel state:

1. Pursuant to 28 U.S.C. § 1331, 1441, 1443, and 1446, removing Defendants Connie Chene, Tamara Henderson, Carlos Romero, Karen Carmichael, all in their individual capacities, and the Governing Council For Alice King Community School, herein exercise their right, with the written consent of all served Defendants, to remove this action from the Second Judicial District Court, County of Bernalillo, State of New Mexico, where this case is now pending by the name and style of *Veronica Pierce and Flint Pierce v. Connie Chene, Shay VanDerMey, Tamara Henderson, Carlos Romero, Karen Carmichael, Mark Tolley, Deborah Elder, all in their individual capacities, and the Governing Council For Alice King Community School*, No. D-202-CV-2015-05906. Plaintiffs' action arises, in part, out of alleged violations of Plaintiffs'

rights pursuant to 42 U.S.C. § 1983 and the First Amendment, the Fourth Amendment, and the Fourteenth Amendment of the United States Constitution.

2. This Court has original jurisdiction as provided in 28 U.S.C 1331 in that the cause arises under the Constitution and law of the United States brought pursuant to 42 U.S.C. § 1983 or other applicable federal statutes. *See e.g.*, Complaint at Count I (First Amendment Claim- Retaliation Related to Restraining Order Application against Defendants VanDerMey, Chene, Henderson, and Romero), Count II (First Amendment Claim- Retaliation Related to Ban from AKCS Campus against Defendants Chene, Henderson, Romero, Tolley, and Elder), Count III (First Amendment Claim- Retaliation Related to the Facilitation of Criminal Charges Against the Pierces against Defendants Chene and Henderson), Count IV (Fourteenth Amendment Claim- Denial of Due Process Related to Ban from AKCS Campus against Defendants Chene, Henderson, and Romero), Count V (Fourth Amendment- Malicious Prosecution Related to the Facilitation of Criminal Charges against Defendants Chene and Henderson), Count VI (Fourth Amendment – Unreasonable Seizure Related to the Physical Force Used on Mrs. Pierce against Defendant Carmichael).

3. Further, the removing Defendants state that this Court has supplemental jurisdiction, pursuant to 28 U.S.C. § 1367, over the state law claim since said claim is so related to the federal law claims that they form part of the same case and controversy under Article III of the United States Constitution.

4. On August 4, 2015 Defendant Connie Chene was served with the Summons, Complaint, and Certificate of Arbitration. *See Exhibit A.* On August 3, 2015 Defendant Tamara Henderson was served with the Summons, Complaint, and Certificate of Arbitration. *See Exhibit B.* On August 3, 2015 Defendant Carlos Romero was served with the Summons, Complaint, and

Certificate of Arbitration. *See Exhibit C.* On August 7, 2015 Defendant Karen Carmichael was served with the Summons, Complaint, and Certificate of Arbitration. *See Exhibit D.* On August 3, 2015 Defendant the Governing Council for Alice King Community School was served with the Summons, Complaint, and Certificate of Arbitration. *See Exhibit E.*

5. On August 4, 2015 non-removing Defendant Shay VanDerMey was served with the Summons, Complaint, and Certificate of Arbitration. *See Exhibit F.*

6. On August 11, 2015, non-removing Defendants Mark Tolley and Deborah Elder received notice of the Complaint.

7. This Notice is filed within thirty (30) days of service on the removing Defendants.

8. Non-removing Defendant, Shay VanDerMey, consents to the removal of this action as shown by the attached consent signed by her counsel. *See Exhibit G.*

9. Non-removing Defendants, Mark Tolley and Deborah Elder, consent to the removal of this action as shown by the attached consent signed by their counsel. *See Exhibit H.*

10. Therefore, there is unanimity of all Defendants consenting to this removal.

11. This Notice of Removal is filed within thirty (30) days of service of the Complaint on the removing Defendants. Thus, the Notice of Removal is timely under 28 U.S.C. § 1446(b).

12. Pursuant to 28 U.S.C. § 1446(d), written notice of this Notice of Removal has been given to all adverse parties and an endorsed copy will be filed contemporaneously with the Clerk of the Second Judicial District Court, County of Bernalillo, State of New Mexico.

13. Removing Defendants are also attaching a copy of the www.nmcourts.gov court docket as of August 27, 2015. *See Exhibit I.* Pursuant to D.N.M. LR-Civ.81.1(a), a certified copy of the State Court file will be filed with the Court within twenty-eight (28) days after filing the Notice of Removal.

14. The Complaint and Certificate of Arbitration served on the removing Defendants is attached as *Exhibit J*.

WHEREFORE, the removing Defendants respectfully request this Court to remove this action from the Second Judicial District Court, County of Bernalillo, State of New Mexico to the United States District Court for the District of New Mexico.

Respectfully submitted,

NARVAEZ LAW FIRM, P.A.

/s/ Henry F. Narvaez
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing notice of removal was served to the following counsel of record via email this 28th of August, 2015:

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/s/ Henry F. Narvaez

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